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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,991	06/15/2001	Patrick Christian Michael Boucousis	3133.00003	7804

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EXAMINER
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JASMIN, LYNDIA C

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/881,991	<b>Applicant(s)</b> BOUCOUSIS, PATRICK CHRISTIAN MICHAEL	
	<b>Examiner</b> Lynda Jasmin	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 28, 2005 has been entered.

### ***Claim Rejections - 35 USC § 101***

2. Claims 1-7 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims do not produce a "useful, concrete, tangible result." *AT&T Corp. v. Excel Communications, Inc.*, 172 F.3d 1352, 1358, 50 USPQ2d 1447, 1453 (Fed. Cir. 1999); *In re Warmerdam*, 33 F3d 1354, 31 USPQ2d 1754 (Fed Cir 1994).<sup>1</sup>
3. Claims 8-14 are rejected under 35 U.S.C. 101 because: the claimed invention is directed to non-statutory subject matter. It is not clear which of the four (4) statutory classes claims 8-14 are drawn to. If Applicants expressly state which of the four (4) statutory classes claims 8-14 are drawn to and provide appropriate evidence in support thereof, this particular rejection will be withdrawn.

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<sup>1</sup>To help understand the USPTO's position on §101 issues, see USPTO's "35 U.S.C. 101 Training Materials" available at <http://www.uspto.gov/web/menu/pbmethod>.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In this case, in claims 8-14 because the statutory class of the claims can not be determined, the scope of the claims is indefinite. If Applicants overcome the 101 above, this particular 112 2<sup>nd</sup> paragraph rejection will be withdrawn.

In claims 1 and 8, the recitation "making available the identity of the of the seeker ... before making available the identity of said vendors" is not positively set forth.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. As best understood, claims 1-3 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graham (6,631,372), in view of Fraser et al. (5,664,115).

Graham discloses the claimed method and business application for facilitating the exchange of information between vendors and seekers (between client and merchant server) with the steps of: entering vendors' item records as listings in an

electronically searchable data structure (via a search engine; col. 3, lines 55-67), searching the data structure on the basis of seeker queries generated by seekers (col. 3, lines 44-56).

Graham further discloses ensuring that the vendor's item records are for items appearing in an electronically searchable item catalog (inherently recited via site and page contents that the search engine depends on), ensuring that seeker queries are in respect of items appearing in the item catalog (via hit list that represent a specific page or a specific site).

Graham however fails to explicitly disclose commercially sensitive information that vendor will not make public without knowing the identity of the seeker and making available the identity of the seeker for viewing by the vendors corresponding to matched listings before making available the identity of the vendors for viewing by the seeker.

Frazer discloses the concept of having a host system that communicates to anonymous sellers information about an interested buyer to a seller. Frazer further discloses a buyer evaluation application, which screens potential buyer's on behalf of the seller. Frazer further discloses upon receiving the prospective buyer's requests, the sellers determined which buyer to respond to based on the information provided by the prospective buyer.

From this teaching of Frazer, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the search engine to locate goods and services of Graham to include the screening of prospective buyer's before

matching with anonymous sellers in order to insure the chances of a successful consummated sale.

8. Claims 4-7 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graham in view of Frazer as applied to claims 1 and 8 above, and further in view of Gardner et al. (5,758,327).

The Graham and Frazer combination discloses the element of the claimed invention, however, fails to explicitly disclose granted seeker's access to the vendor's records and making available seeker and vendor's contact details.

Gardner et al. discloses the concept of processing electronic requisition with the step of providing for each vendor to nominate seekers who are not to be granted access to the vendor's records (via private catalog function and to control access to and downloading of supplier-maintained catalog data). Gardner further discloses making available companies and vendor's contact details (via an authorization process). Gardener further discloses the concept of having catalog requisitions (in which specific vendors are assigned to particular companies), and non-catalog requisitions (which require involvement by a buyer who locates a vendor of items).

From this teaching of Gardner, it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the exchange of information of Graham and Frazer to include the electronic requisition processing with company-specific rules as taught by Gardner in order to facilitate electronic commerce for a number of companies.

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As per aiding the vendors to enter assemblies of item, the Examiner takes Official Notice that is old and well known in the art. Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the Graham and Frazer in view of Gardner combination to include software module to generate listing of parts and sub-parts of an assembly since such is well known for catalog database to contain catalog or catalogs published by a vendor Distributor, having Distributor's catalog numbers for all listed products and vendor manufacturer's part numbers for many of the listed products.

9. Functional recitation(s) using the word "for" (e.g. "for viewing by the vendors corresponding to the matched listings before making available the identity of said vendors for viewing by the seeker thereby preventing anonymous access to commercially sensitive information" as recited in claims 1 and 8) have been considered but given less patentable weight<sup>8</sup> because they fail to add any steps and are thereby regarded as intended use language. A recitation of the intended use of the claimed invention must result in additional steps. See *Bristol-Myers Squibb Co. v. Ben Venue Laboratories, Inc.*, 246 F.3d 1368, 1375-76, 58 USPQ2d 1508, 1513 (Fed. Cir. 2001) (Where the language in a method claim states only a purpose and intended result, the expression does not result in a manipulative difference in the steps of the claim). If Applicant(s) desire to give the phrase greater patentable weight, the Examiner respectfully recommends Applicant(s) remove "for" and thus recite a positive method step. Like always, such modification(s) must not constitute new matter and be supported in Applicant(s)' specification.

***Response to Arguments***

10. Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Peterson et al. Speicher et al. are cited for disclosing the system of keeping the identity the potential parties in an online exchange.

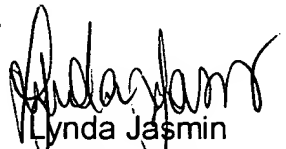
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda Jasmin whose telephone number is (571) 272-6782. The examiner can normally be reached on Monday- Friday (9:30-6:00) with Thursday Telework.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Lynda Jasmin  
Primary Examiner  
Art Unit 3627

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